

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Approve the release of the original Water & Sewer Maintenance Agreement with Letter of Credit in the amount of \$9,720.00 for the project known as Regal Point Park Lots 3 & 4

DEPARTMENT: Environmental Services

DIVISION: Business Office

AUTHORIZED BY: Joe Forte

CONTACT: Becky Noggle

EXT: 2143

MOTION/RECOMMENDATION:

Approve the release of the original Water & Sewer Maintenance Agreement with Letter of Credit in the amount of \$9,720.00 for the project known as Regal Point Park Lots 3 & 4.

District 5 Brenda Carey

Bob Briggs

BACKGROUND:

As of 3/10/09, the Seminole County Water and Sewer Inspector found deficiencies however, due to the Third Amendment to the Etor PUD which changes the nature of undeveloped property, and the letter submitted by Suncor to Seminole County on 3/13/2009, the above mentioned Maintenance Agreement may be released on the agreement that once the new development is completed, another 2 yr. Bond will be given to the County.

STAFF RECOMMENDATION:

Staff recommends that the Board approve the release of the original Water & Sewer Maintenance Agreement with Letter of Credit in the amount of \$9,720.00 for the project known as Regal Point Park Lots 3 & 4.

ATTACHMENTS:

1. Release request and LOC

Additionally Reviewed By: No additional reviews

ENVIRONMENTAL SERVICES DEPARTMENT



March 10, 2009

Suncor Properties
550 N Palmetto Ave
Sanford, FL 32771

Re: Maintenance Agreement w/ LOC

Project Name: Regal Pointe Park Lots 3 & 4
LOC# 31 6698/80369576146698
Amount: \$9,720.00
District #5

To Whom It May Concern:

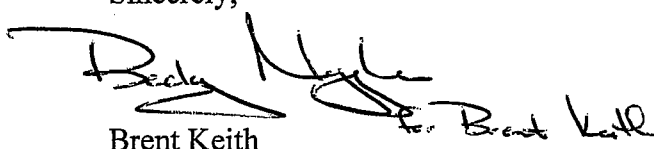
Pursuant to Seminole County's Land Development Code (LDC) requirements, Chapter 35, Part 8, Sec. 35.902 (H) (1,2) the County conducted an inspection of the referenced project on 3/10/09 to insure that any maintenance problems or design deficiencies which manifested themselves during the maintenance period were addressed prior to expiration of the Bond.

As of 3/10/09, the Seminole County Water and Sewer Inspector found deficiencies however, Due to the Third Amendment to the Etor PUD which changes the nature of undeveloped property, and your letter submitted to Seminole County on 3/13/2009, the above mentioned Maintenance Agreement may be released on the agreement that once the new development is completed, another 2 yr Bond will be given to the County.

Please send request for release of the Maintenance Agreement on your letterhead to Becky Noggle, 500 W Lake Mary Blvd., Sanford, FL 32773. LOC/Bonds are to be released by the Board of County Commissioners through a Regular Board Session.

If you have any questions, please contact Becky Noggle @ 407-665-2143.

Sincerely,


Brent Keith
Sr. Utilities Inspector

c: Project File

SUNCOR
PROPERTIES, INC.

March 13, 2009

Seminole County Environmental Services
500 W. Lake Mary Blvd.
Sanford, Florida 32773
VIA FACSIMILE: 407-665-2029
Attention: Becky Noggle

RE: Project Name: Regal Point
LOC# 80369576146698
District: #5

Dear Becky,

We are requesting the original maintenance bond referenced above to be released.

We agree that upon the completion of future site work that we will be required to have a new maintenance bond.

Sincerely,

A handwritten signature in black ink, appearing to read 'Robert Horian', with a long horizontal flourish extending to the right.

Robert Horian
Owner

MAINTENANCE AGREEMENT
(Water and Sewer Improvements)

THIS AGREEMENT is made and entered into this 5 day of JAN, 2007, between SUNCOR PROPERTIES, INC., hereinafter referred to as "PRINCIPAL" and SEMINOLE COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY".

WITNESSETH:

WHEREAS, PRINCIPAL has constructed certain water and sewer improvements, including water lines, sewer lines, lift stations and other appurtenances in that certain subdivision described as RIVIERA, as recorded in Plat Book _____ Pages _____, Public Records of Seminole County, Florida, hereinafter referred to as the "Plat"; and

WHEREAS, the aforesaid water and sewer improvements were made pursuant to certain plans and specifications dated MAY 10, 2005, (as subsequently revised or amended on N/A, 20__) and filed with the COUNTY Department of Environmental Services; and

WHEREAS, PRINCIPAL is obligated to protect the COUNTY against any defects resulting from faulty materials or workmanship of said water and sewer improvements and to maintain said water and sewer improvements for a period of two (2) years from 1-9, 2007; and

WHEREAS, to guarantee performance of said obligations by PRINCIPAL, PRINCIPAL has obtained and furnished to the COUNTY, a certain Irrevocable Letter of Credit No. _____ Issued by Colonial Bank in the sum of NINE THOUSAND SEVEN HUNDRED TWENTY DOLLARS (\$9,720).

NOW, THEREFORE, the COUNTY agrees to accept the water and sewer improvements into the COUNTY Utility System upon execution of this Agreement and to accept an Irrevocable Letter of Credit as security for the maintenance obligation of the PRINCIPAL.

PRINCIPAL, its heirs, executors, successors, and assigns, jointly and severally agrees to be held and firmly bound to the COUNTY in the sum of NINE THOUSAND SEVEN HUNDRED TWENTY DOLLARS (\$9,720) on the condition that, if PRINCIPAL shall promptly and faithfully protect the COUNTY against any defects resulting from faulty materials or workmanship of the aforesaid water and sewer improvements and maintain said water and sewer improvements for a period of two (2) years from 1-9, 2007, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

The COUNTY Department of Environmental Services shall notify the PRINCIPAL in writing of any defect for which the PRINCIPAL is responsible and shall specify in said notice a reasonable period of time within which PRINCIPAL shall correct said defect.

Should the PRINCIPAL fail or refuse to perform or correct said defects within the time specified, the COUNTY shall be authorized, but shall not be obligated, to take over and perform, or cause to be performed, such work as shall be necessary to correct such defects, and shall be authorized to draw upon the Letter of Credit to pay the cost thereof, including, but not limited to, engineering, legal and contingent costs. Further, the COUNTY, in view of the public interest, health, safety, welfare and other factors involved, and the consideration in approving and filing the said Plat shall have the right to resort to any and all legal remedies against the PRINCIPAL, both at law and in equity, including, specifically, specific performance, to which the PRINCIPAL unconditionally agrees.

The PRINCIPAL further agrees that the COUNTY, at its option, shall have the right to correct said defects resulting from faulty materials or workmanship, or pursuant to public advertisement and receipt of bids, cause to be corrected any defects or said defects in case the PRINCIPAL shall fail or refuse to do so, and, in the event the COUNTY should exercise and give effect to such right, the PRINCIPAL shall be obligated hereunder to reimburse the COUNTY the total cost thereof, including, but not limited to, engineering, legal and contingent costs, together with any damages, either direct or consequent, which may be sustained on account of the failure to the PRINCIPAL to correct said defects.

IN WITNESS WHEREOF, the parties to this Agreement have caused their names to be affixed hereto by the proper officers thereof.

ATTEST:

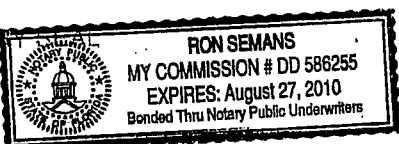
By: ROBERT HORIAN

(CORPORATE SEAL)

Date: 2/5/07

I HEREBY CERTIFY that, on this 5 day of JAN, 2007, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared ROBERT HORIAN as President and Secretary, respectively of SUNCOZ PROPERTIES, a CORP organized under the laws of the State of Florida, who are personally known to me or who have produced _____ as identification and that they did take an oath. They acknowledged before me that they executed the foregoing instrument as such officers in the name and on behalf of the corporation, and that they also affixed thereto the official seal of the corporation.

NOTARY SEAL



Notary Public Signature

WITNESSES:

DEPARTMENT OF PUBLIC WORKS.
UTILITIES DIVISION
SEMINOLE COUNTY, FLORIDA


Utilities Manager

Date: 2/5/07

Within authority delegated by the County Manager pursuant to Resolution No. 97-R-66 adopted March 11, 1997 and further delegated by Memorandum dated March 27, 1997, Re: Streamlining of Development-Related Agenda Items and approved on April 2, 1997.



COLONIAL BANK, N.A.

STANDBY LETTER OF CREDIT NUMBER 31 6698/80369576146698		AMENDMENT TO STANDBY LETTER OF CREDIT	
AMENDMENT NO 1 DATED FEBRUARY 22, 2008		PAGE 1 PLACE AND DATE OF ISSUE SUNRISE JANUARY 08, 2007	
APPLICANT SUNCOR PROPERTIES, INC. 3492 ROCK CLIFF PLACE LONGWOOD, FL 32779		BENEFICIARY SEMINOLE COUNTY ENVIRONMENTAL DEPT. 500 W. LAKE MARY BLVD. SANFORD, FL 32773	
ADVISING BANK NOT APPLICABLE		THIS AMENDMENT IS TO BE CONSIDERED AS PART OF THE ABOVE MENTIONED CREDIT AND MUST BE ATTACHED THERETO	
THE ABOVE MENTIONED CREDIT IS AMENDED AS FOLLOWS :			
THE LETTER OF CREDIT NUMBER MUST NOW READ 31 6698/80369576146698 INSTEAD OF 80369576146698.			
PLEASE NOTE THAT ANY DRAWINGS, CORRESPONDENCE AND COMMUNICATIONS ARE NOW TO BE FORWARDED TO THE FOLLOWING ADDRESS: COLONIAL BANK, N.A. 1580 SAWGRASS CORPORATE PARKWAY SUITE 310 SUNRISE, FL 33323 ATTN: LETTERS OF CREDIT DEPT. PHONE: (954)839-1103, FAX: (334)481-4005			
ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.			
***** END OF AMENDMENT *****			
THIS AREA INTENTIONALLY BLANK			
FOR AND ON BEHALF OF COLONIAL BANK, N.A.			
 AUTHORIZED SIGNATURE(S)			



SUBDIVISION AND SIT PLAN

IRREVOCABLE LETTER OF CREDIT
(For Maintenance Agreement – Water and Sewer Improvements)

Seminole County Environmental Dept.
500 W. Lake Mary Blvd.
Sanford, FL 32773

Colonial Bank, N.A.
4699 Lake Mary Blvd.
Lake Mary, FL 32746
January 8, 2007

RE: Irrevocable Letter of Credit No. 80369576146698

Dear Commissioners:

By order of **Suncor Properties, Inc.**, we hereby establish an Irrevocable Letter of Credit in your favor. We hereby authorize you to draw on **Colonial Bank, N.A.** up to an aggregate amount of **Nine-thousand, seven-hundred, twenty & no/100 dollars (\$9,720.00)** available by your drafts at sight accompanied by a signed statement of the Board of County Commissioners that the Maintenance Agreement dated Jan 5th, 2007 between **Suncor Properties, Inc.** and Seminole County is in default.

Drafts must be drawn and negotiated on or before **January 8, 2009**, and each draft must state that it is drawn under Irrevocable **Letter of Credit No. 80369576146698** of **Colonial Bank, N.A.** dated **January 8, 2007** and the amount thereof endorsed on this Letter of Credit. The Bank agrees that this Letter of Credit shall automatically renew itself for successive one-year periods unless the Bank shall give notice to you no later than forty-five (45) days preceding an expiration date that it chooses not to renew the Letter of Credit, in which case, the County shall be entitled to demand and receive the outstanding amount of money represented by this Letter of Credit. In the event a draw based on expiration of this Letter of Credit the proceeds shall be held by Seminole County as Cash Bond to secure continued adherence to the terms of the Maintenance Agreement with **Suncor Properties, Inc.**

Upon tender of payment, you will release to the Bank the original Irrevocable Letter of Credit marked "Cancelled." In any event, upon expiration or at any time after the completion of the Maintenance Agreement dated Jan 5th, 2007, and the completion of **Suncor Properties, Inc.** obligations thereunder, you will return the original Irrevocable Letter of Credit to this Bank marked "Cancelled."

We hereby engage with the drawers, endorsers, and bona fide holders of all drafts drawn under and in compliance with the terms of this credit, that such drafts will be duly honored upon presentation to the drawee.

If the Board of County Commissioners initiates suit under this Letter of Credit, the Bank hereby agrees to be responsible for Seminole County's court costs and reasonable attorneys' fees, but **Colonial Bank, N.A.** shall not be responsible for any attorneys' fees in excess of fifteen percent (15%) of the aggregate amount of this Letter of Credit.

This Letter of Credit sets forth in full the terms of our undertaking and such undertaking shall not, in any way, be amended by reference herein to any agreement, and any such reference shall not be deemed to incorporate herein by reference any document or agreement other than the Maintenance Agreement dated Jan 5th 2007 and referenced herein.

Very truly yours,

Debra A. Bennett, Pres
Debra A. Bennett, County President/Lending

ATTEST:

Alan Singer
Alan Singer, Vice President